

SENATE BILL No. 429

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-28-26.5; IC 6-2.5.

Synopsis: Intermodal facility materials sales tax exemption. Establishes the intermodal terminal facility building supply program. Provides that the Indiana economic development corporation may grant a sales and use tax exemption for building materials used to construct or rehabilitate an intermodal terminal facility.

Effective: July 1, 2007.

Simpson

January 11, 2007, read first time and referred to Committee on Tax and Fiscal Policy.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 429

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-28-26.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2007]:

4 **Chapter 26.5. Intermodal Terminal Facility Building Supply**
5 **Program**

6 **Sec. 1. As used in this chapter, "department" refers to the**
7 **department of state revenue.**

8 **Sec. 2. As used in this chapter, "district" means any Indiana**
9 **economic development district.**

10 **Sec. 3. As used in this chapter, "intermodal terminal facility"**
11 **means land, improvements to land, equipment, and appliances**
12 **necessary for the receipt and transfer of goods between one mode**
13 **of transportation and another, at least one (1) of which must be**
14 **transportation by rail.**

15 **Sec. 4. As used in this chapter, "intermodal terminal facility**
16 **area" means an area designated by a district for the purpose of:**

17 **(1) developing a new intermodal terminal facility; or**



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(2) rehabilitating an obsolete intermodal terminal facility.

Sec. 5. As used in this chapter, "qualified facility" means a project to:

(1) construct a new intermodal terminal facility; or

(2) rehabilitate an obsolete intermodal terminal facility; in an intermodal terminal facility area.

Sec. 6. (a) A district may apply to the corporation to have tangible personal property that is to be incorporated into a qualified facility exempted from the gross retail tax under IC 6-2.5-5-42. The corporation may approve the district's application if the corporation determines that the district's proposed qualified facility meets the following criteria:

(1) The proposed intermodal terminal facility has the support of the surrounding community.

(2) The proposed intermodal terminal facility is well suited for transportation, distribution, and logistics.

(b) The application must include:

(1) the name of the entity proposing the qualified facility;

(2) a description of the qualified facility;

(3) the location of the qualified facility; and

(4) any other information that the corporation may require to evaluate the application.

(c) The corporation may adopt rules under IC 4-22-2 specifying application procedures.

Sec. 7. (a) If the corporation approves the district's application, the corporation shall send an exemption letter to the district indicating that tangible personal property incorporated into a qualified facility is exempt under IC 6-2.5-5-42.

(b) If the corporation denies the district's application, the corporation must provide a letter to the district detailing why the application was denied.

Sec. 8. (a) If the corporation approves the district's application under section 7 of this chapter, the district shall provide a copy of the letter to a person described in IC 6-2.5-5-42. The person who receives an exemption letter may provide a copy of the letter to a retail merchant to verify exemption from the gross retail tax as provided under IC 6-2.5-8-8.

(b) A district may only provide a copy of the exemption letter to a taxpayer working on a qualified facility. The district may obtain information from the taxpayer, on a form prescribed by the corporation, to verify the person's entitlement to the exemption provided under IC 6-2.5-5-42.

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1 **Sec. 9. (a) If the corporation determines the person described in**
 2 **IC 6-2.5-5-42 was awarded an exemption letter under this chapter**
 3 **and has not complied with requirements for the exemption**
 4 **provided under IC 6-2.5-5-42, the corporation shall, after giving**
 5 **the person an opportunity to explain the noncompliance, notify the**
 6 **department of the noncompliance and request an assessment.**

7 **(b) After receiving notice of the noncompliance, the department,**
 8 **with the assistance of the corporation, shall determine the amount**
 9 **of the assessment and make an assessment under IC 6-8.1.**

10 **(c) The assessment may be made against any taxpayer that**
 11 **received a copy of the exemption letter under section 8 of this**
 12 **chapter.**

13 **SECTION 2. IC 6-2.5-5-42 IS ADDED TO THE INDIANA CODE**
 14 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 15 **1, 2007]: Sec. 42. (a) As used in this section, "intermodal terminal**
 16 **facility" has the meaning set forth in section IC 5-28-26.5-3.**

17 **(b) Transactions involving tangible personal property are**
 18 **exempt from the state gross retail tax if:**

19 **(1) the person acquiring the property is in the construction**
 20 **business;**

21 **(2) the person acquiring the property acquires it for**
 22 **incorporation as a material or integral part of an intermodal**
 23 **terminal facility; and**

24 **(3) the economic development corporation has authorized the**
 25 **exemption under IC 5-28-26.5-7.**

26 **(c) A person described in subsection (b) is required to maintain**
 27 **documentation to verify that the tangible personal property**
 28 **exempted under this section was used in a project approved by the**
 29 **economic development corporation under IC 5-28-26.5-7.**

30 **SECTION 3. IC 6-2.5-8-8 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) A person,**
 32 **authorized under subsection (b), who makes a purchase in a transaction**
 33 **which is exempt from the state gross retail and use taxes, may issue an**
 34 **exemption certificate to the seller instead of paying the tax. The person**
 35 **shall issue the certificate on forms and in the manner prescribed by the**
 36 **department. A seller accepting a proper exemption certificate under**
 37 **this section has no duty to collect or remit the state gross retail or use**
 38 **tax on that purchase.**

39 **(b) The following are the only persons authorized to issue**
 40 **exemption certificates:**

41 **(1) retail merchants, wholesalers, and manufacturers, who are**
 42 **registered with the department under this chapter;**

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(2) organizations which are exempt from the state gross retail tax under IC 6-2.5-5-21, IC 6-2.5-5-25, or IC 6-2.5-5-26 and which are registered with the department under this chapter; ~~and~~

(3) a person who receives an exemption letter under IC 5-28-26.5-8; and

~~(3)~~ **(4)** other persons who are exempt from the state gross retail tax with respect to any part of their purchases.

(c) The department may also allow a person to issue a blanket exemption certificate to cover exempt purchases over a stated period of time. The department may impose conditions on the use of the blanket exemption certificate and restrictions on the kind or category of purchases that are exempt.

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